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Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Report of the Fifth Committee

Rapporteur: Mr. Haile Selassie **Getachew** (Ethiopia)

I. Introduction

1. At its 19th plenary meeting, on 20 September 2002, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-seventh session the item entitled "Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994" and to allocate it to the Fifth Committee.

2. The Fifth Committee considered the item at its 26th, 27th and 37th meetings, on 18 and 21 November and 13 December 2002. Comments and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/57/SR.26, 27 and 37).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the long-term financial obligations of the United Nations with regard to the enforcement of sentences (A/57/347);

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(b) Report of the Secretary-General on the financial performance of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the period from 1 January to 31 December 2001 (A/57/368);

(c) First report of the Secretary-General on the performance of the International Tribunal for Rwanda for the biennium 2002-2003 (A/57/481 and Corr.1);

(d) Report of the Secretary-General on revised estimates arising in respect of Security Council resolution 1431 (2002) on the establishment of ad litem judges in the International Tribunal for Rwanda (A/57/482);

(e) Report of the Secretary-General on conditions of service for the ad litem judges of the International Criminal Tribunal for Rwanda (A/57/587);

(f) Note by the Secretary-General on the comprehensive report on the results of the implementation of the recommendations of the Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (A/56/853);

(g) Report of the Advisory Committee on Administrative and Budgetary Questions (A/57/593).

II. Consideration of draft resolution A/C.5/57/L.35

4. At the 37th meeting, on 13 December, the Committee had before it a draft resolution entitled "Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994" (A/C.5/57/L.35), which was submitted by the Chairman on the basis of informal consultations coordinated by the representative of Norway.

5. At the same meeting, the Committee adopted draft resolution A/C.5/57/L.35 without a vote (see para. 6).

III. Recommendation of the Fifth Committee

6. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

The General Assembly,

Having considered the reports of the Secretary-General on the performance of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the biennium 2002-2003,[1] the financial performance of the International Tribunal for Rwanda for the period from 1 January to 31 December 2001,[2] the results of the implementation of the recommendations of the Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda,[3] the long-term financial obligations of the United Nations with regard to the enforcement of sentences[4] and the conditions of service for the ad litem judges of the International Tribunal for Rwanda,[5]

Having also considered the revised estimates arising in respect of Security Council resolution 1431 (2002) on the establishment of ad litem judges in the International Tribunal for Rwanda,[6]

Having further considered the related report of the Advisory Committee on Administrative and Budgetary Questions,[7]

Recalling its resolutions 56/248 A of 24 December 2001 and 56/248 B of 27 March 2002 on the financing of the International Tribunal for Rwanda for the period from 1 January 2002 to 31 December 2003,

Taking note of Security Council resolution 1431 (2002) of 14 August 2002 on the establishment of ad litem judges for the International Tribunal for Rwanda,

1. *Endorses* the conclusions and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions,[7] subject to the provisions of the present resolution;

2. *Notes with concern* that the vacancy rate at the International Tribunal for Rwanda remains at unacceptably high levels and that, by the end of 2002, the posts of Chief of Prosecution and Deputy Prosecutor will have been vacant for more than two years and nineteen months, respectively, despite information indicating that there was an abundance of qualified candidates in the region and elsewhere, and

[1] A/57/481 and Corr.1.
[2] A/57/368.
[3] A/56/853.
[4] A/57/347.
[5] A/57/587.
[6] A/57/482.
[7] A/57/593.

requests the Registrar of the International Tribunal for Rwanda to ensure that the aforementioned posts are filled without further delay and to report thereon to the General Assembly no later than at its fifty-eighth session;

3. *Urges* the Secretary-General to request the Office of Internal Oversight Services to conduct a management review of the Office of the Prosecutor, paying particular attention to the problems which have arisen in filling these critical posts,[8] and to report thereon to the General Assembly no later than at its fifty-eighth session;

4. *Notes with concern* that the posts approved by the General Assembly in its resolutions 56/248 A and B for on-site audit and investigative services in the International Tribunal for Rwanda have not been filled, and calls upon the Office of Internal Oversight Services to fill those positions without any further delay;

5. *Takes note* of the report of the Secretary-General on the long-term financial obligations of the United Nations with regard to the enforcement of sentences,[4] on the understanding that future budgetary requests on enforcement of sentences will be considered on a case-by-case basis, taking into account legal, administrative and financial justification provided in support of each request;[9]

6. *Affirms* that it would be appropriate for t[illegible]ed Nations to bear the immediate costs arising from providing prisoners serv[illegible]entences imposed by the International Tribunal for Rwanda with a regime of imprisonment that is consistent with those outlined in paragraph 17 of the report of the Secretary-General;[4]

7. *Invites* the Security Council to address uncertainties arising from issues identified in paragraphs 8, 42 and 43 of the report of the Secretary-General[4] and to provide guidance on possible amendments to the statute of the International Tribunal for Rwanda;

8. *Requests* the Secretary-General to report to the General Assembly at its fifty-eighth session on these issues, including the consideration of the Security Council;

9. *Also requests* the Secretary-General, as an ad hoc and interim measure, to charge the costs related to the needs arising with regard to the enforcement of sentences within presently appropriated resources before the end of the biennium 2002-2003;

10. *Further requests* the Secretary-General, in full cooperation with the International Tribunal for Rwanda, to ensure that due consideration is given in all future budget proposals for the Tribunal to the provision of resources to facilitate the enforcement of sentences;

11. *Requests* the Secretary-General to ensure adequate oversight of prison facility upgrade projects and the subsequent maintenance of minimum international prison standards where those maintenance costs are borne by the United Nations;

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[8] Ibid., para. 13.

[9] Ibid., para. 41.

12. *Also requests* the Secretary-General to continue to assess the accuracy of the cost estimates proposed in his report on the enforcement of sentences,[4] to report thereon to the General Assembly at its fifty-eighth session, and to keep the cost estimates under periodic review;

13. *Urges* the International Tribunal for Rwanda to continue to consult closely with the International Tribunal for the Former Yugoslavia in the development and implementation of its own completion strategy;

14. *Requests* the Secretary-General to prepare a comprehensive report on the progress made by the International Tribunal for Rwanda in reforming its legal aid system for consideration by the General Assembly at the main part of its fifty-eighth session;

15. *Also requests* the Secretary-General to submit to the General Assembly at its fifty-eighth session the proposed budget of the International Tribunal for Rwanda for the biennium 2004-2005, which should include the following elements:

(a) The budget should include detailed information as to how the resources requested for the biennium will support the development of a sound and realistic completion strategy and the status of implementation of Board of Auditors recommendations, where relevant, with regard to specific items of proposed expenditure;

(b) The budget requirements for the Registry, the Office of the Prosecutor and the non-judicial, administrative functions of the Chambers should be presented in a results-based format linking objectives and inputs to expected accomplishments to be measured by indicators of achievement;

(c) Revised arrangements for preventing overexpenditures by defence counsel and for managing, monitoring and controlling the expenses of the legal aid system of the International Tribunal for Rwanda should be included in support of proposals for defence costs, including a full definition and establishment of quantitative criteria for determining indigency and partial indigency based on, inter alia, the defendants' circumstances and ability to pay;

(d) Proposed allocations for costs for travel of investigators should be supported by those procedures implemented by the Registrar in order not to exceed requirements;

(e) The proposed post structure for the biennium 2004-2005 should reflect reductions and shifts in requirements within the International Tribunal for Rwanda owing to the expected completion of investigations by 2003 and, where appropriate, address any new requirements for established posts through redeployment;

16. *Further requests* the Secretary-General to consider the introduction, wherever feasible, in the International Tribunal for Rwanda of all measures undertaken in the International Tribunal for the Former Yugoslavia that have proved effective with regard to controlling administrative costs, including maintaining efficient administrative and managerial functions;

17. *Approves* the additional resources for the International Tribunal for Rwanda for 2003 as recommended by the Advisory Committee, except that the staffing complement shall be reduced by four posts, and requests the Secretary-

General to report on the use of ad litem judges and their impact in the second performance report for the biennium 2002-2003;

18. *Requests* the Secretary-General to ensure that optimum use is made of ad litem judges, following their introduction, to increase the number of court sessions and extend scheduled working hours;

19. *Decides* that the financing for the unassessed expenditures incurred in 2001, in the amount of 2,664,500 United States dollars gross (1,880,000 dollars net) shall be drawn from the unencumbered balance in the Special Account for the International Tribunal for Rwanda;[10]

20. *Resolves* that, for the biennium 2002-2003, the amount of 197,127,300 dollars gross (177,739,400 net), approved in its resolution 56/248 B for the budget of the International Tribunal for Rwanda, shall be adjusted by the amount of 4,657,600 dollars gross (4,254,100 dollars net) arising for ad litem judges in respect of Security Council resolution 1431 (2002) for a total amount of 201,784,900 dollars gross (181,993,500 dollars net);

21. *Authorizes* the Secretary-General to enter into commitments, where necessary, in an amount not to exceed 2,177,700 dollars gross (879,200 dollars net) for the resource requirements of the International Tribunal for Rwanda to support the re-costing of resources for the biennium 2002-2003, and requests the Secretary-General to report on the impact thereof in the context of the second performance report for the biennium;

22. *Decides* to apportion for 2003 the amount of 53,047,600 dollars gross (47,759,100 dollars net), including 5,202,750 dollars gross (4,521,450 dollars net), being the increase in assessments among Member States in accordance with the scale of assessments applicable to the regular budget of the United Nations for 2003 as set out in its resolutions 55/5 B of 23 December 2000 and 57/___ of __ December 2002;

23. *Decides also* to apportion for 2003 the amount of 53,047,600 dollars gross (47,759,100 dollars net), including 5,202,750 dollars gross (4,521,450 dollars net), being the increase in assessments among Member States in accordance with the rates of assessment applicable to peacekeeping operations for 2003;

24. *Decides further* that, in accordance with the provisions of its resolution 973 (X) of 15 December 1955, there shall be set off against the apportionment among Member States, as provided for in paragraphs 22 and 23 above, their respective share in the Tax Equalization Fund in the amount of 20,671,800 dollars, including 1,283,900 dollars, being the increase of the estimated staff assessment income approved for the International Tribunal for Rwanda for the biennium 2002-2003.

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[10] See *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 5K and corrigenda* (A/57/5/Add.11 and Corr.1-3), chap. V, statement II, cumulative surplus of $5,507,000.

Annex

Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

	Gross	*Net*
	(United States dollars)	
1. Appropriation for the biennium 2002-2003 (resolution 56/248 B)	197 127 300	177 739 400
Add:		
2. Projected changes for the biennium 2002-2003 (revised parameters/standards and requirements for defence counsel)[a]	2 177 700	879 200
3. Proposal for ad litem judges[b]	5 060 100	4 605 400
(a) Recommendations of the Advisory Committee on Administrative and Budgetary Questions on ad litem judges[c]	(282 100)	(245 500)
(b) Recommendations of the Fifth Committee	(120 400)	(105 800)
4. Proposed revised appropriation for the biennium 2002-2003 (1+2+3 (a)-3 (b))	203 962 600	182 872 700
Less:		
5. Recommendations of the Advisory Committee on Administrative and Budgetary Questions on projected changes as contained in the first performance report for the biennium 2002-2003 — commitment authority[d]	(2 177 700)	(879 200)
6. Total amount to be financed (4-5)	201 784 900	181 993 500
Less:		
7. Assessment for 2002	(95 689 700)	(86 475 300)
8. Balance to be assessed for 2003	106 095 200	95 518 200
Of which:		
9. Contributions assessed on Member States in accordance with the scale of assessments applicable to the regular budget of the United Nations for 2003	53 047 600	47 759 100
10. Contributions assessed on Member States in accordance with the scale of assessments applicable to peacekeeping operations for 2003	53 047 600	47 759 100

[a] A/57/481 and Corr.1.

[b] A/57/482.

[c] A/57/368.

[d] The Fifth Committee recommends that the General Assembly authorize the Secretary-General to incur commitments up to that amount, should it be deemed necessary, and requests him to report thereon in the context of the next performance report.